

Environmental Protection Agency

1508.870

obtaining full and open competition in the acquisition process.

Subpart 1506.2—Full and Open Competition After Exclusion of Sources [Reserved]

Subpart 1506.3—Other Than Full and Open Competition

1506.302-5 Authorized or required by statute.

(a) *Authority.* Section 109(e) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) is cited as authority.

(b) *Application.* (1) The contracting officer may use other than full and open competition to acquire the services of experts for use in preparing or prosecuting a civil or criminal action under SARA whether or not the expert is expected to testify at trial. The contracting officer need not prepare the written justification under FAR 6.303 when acquiring expert services under the authority of section 109(e) of SARA. The contracting officer shall document the official contract file when using this authority.

(2) The contracting officer shall give notice to the Agency's Competition Advocate whenever a contract award is made using other than full and open competition under this authority. The notice shall contain a copy of the contract and the summary of negotiations.

[53 FR 31872, Aug. 22, 1988]

1506.303-2 Content.

The documentation requirements in this section apply only to acquisitions processed using other than small purchase procedures. (Refer to 1513.170 for documentation for small purchase acquisitions).

(a) The initiating office shall prepare a written justification for other than full and open competition (JOFOC) that documents the facts and circumstances substantiating the infeasibility of full and open competition for each recommended limited sources or sole source acquisition when required by FAR 6.302.

(b) The recommendation shall be entitled "Justification for Other Than

Full and Open Competition" and shall be signed at the programmatic Division Director or comparable office level prior to submission with the procurement request. The JOFOC shall contain the information prescribed in FAR 6.303-2 (a) and (b).

(c) If unusual and compelling urgency (see FAR 6.303-2) is a basis for the JOFOC, then the following applies. Explain the circumstances that led to the need for an urgent contractual action. Explain why the requirement could not have been processed in sufficient time to permit full and open competition. It should be noted that the existence of legislation, court order, or Presidential mandate is not, of itself, a sufficient basis for a JOFOC. However, the circumstances necessitating legislation, court order, or Presidential mandate may justify contractual action on an other than full and open competition basis.

(d) If the proposed acquisition has been synopsized in accordance with the applicable requirements in FAR subpart 5.2, the Contracting Officer must incorporate the evaluation of responses to the synopsis in the JOFOC. (See 1506.371(d) for contents of the evaluation document).

[50 FR 14357, Apr. 11, 1985; 50 FR 15425, Apr. 18, 1985]

PART 1508—REQUIRED SOURCES OF SUPPLY

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1508.8—Acquisition of Printing and Related Supplies

1508.870 Contract clause.

Contracting Officers shall insert the contract clause at 1552.208-70, Printing, in all contracts which require printing, duplication, binding, reproduction, and related services and are subject to the provisions of the Government Printing and Binding Regulations published by the Joint Committee on Printing, Congress of the United States.

[49 FR 8838, Mar. 8, 1984]

PART 1509—CONTRACTOR QUALIFICATIONS

Sec.

1509.000 Scope of part.

Subpart 1509.1—Responsible Prospective Contractors

1509.105 Procedures.

Subpart 1509.170—Contractor Performance Evaluations

- 1509.170-1 Scope of subpart.
- 1509.170-2 Purpose.
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- 1509.170-4 Definitions.
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- 1509.170-8 Contractor Performance Report.

Subpart 1509.4—Debarment, Suspension and Ineligibility

- 1509.403 Definitions.
- 1509.406 Debarment.
- 1509.406-3 Procedures.
- 1509.407 Suspension.
- 1509.407-3 Procedures.

Subpart 1509.5—Organizational Conflicts of Interest

- 1509.500 Scope of subpart.
- 1509.502 Applicability.
- 1509.503 Waiver.
- 1509.505-4 Obtaining access to proprietary information.
- 1509.505-70 Information sources.
- 1509.507-1 Solicitation provisions.
- 1509.507-2 Contract clause.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

SOURCE: 49 FR 8839, Mar. 8, 1984, unless otherwise noted.

1509.000 Scope of part.

This part implements FAR part 9 and provides policy and procedures pertaining to contractor's responsibility; debarment, suspension, and ineligibility; and organizational conflicts of interest.

Subpart 1509.1—Responsible Prospective Contractors

1509.105 Procedures.

Subpart 1509.170—Contractor Performance Evaluations

1509.170-1 Scope of subpart.

This subpart establishes EPA policy and procedures for evaluation of contractor performance. Contracting officers shall insert the contract clause at 1552.209-76 in all solicitations and contracts with an estimated dollar value in excess of \$100,000. For acquisitions involving options, the total estimated value of the acquisition shall include the estimated base amount plus the option(s) amount(s).

[49 FR 8839, Mar. 8, 1984, as amended at 64 FR 20202, Apr. 26, 1999]

1509.170-2 Purpose.

This subpart provides guidance to program and contracting personnel regarding the evaluation of contractor performance. It establishes a uniform method for determining and recording the effectiveness of contractors in meeting contractual obligations. Additionally, this subpart details a systematic approach for identifying and maintaining records of contractors' performance histories.

[64 FR 20203, Apr. 26, 1999]

1509.170-3 Applicability.

(a) This subpart applies to all EPA acquisitions in excess of \$100,000, except for architect-engineer acquisitions, acquisitions awarded under the Federal Acquisition Regulation (FAR) Subpart 8.6, Acquisitions from Federal Prison Industries, Incorporated, FAR Subpart 8.7, Acquisitions from Non-profit Agencies Employing People Who Are Blind or Severely Disabled, and FAR 13.5, Test Program for Certain Commercial Items. FAR 36.604 provides detailed instructions for architect-engineer contractor performance evaluations.

(b) The acquisition of commercial items in accordance with FAR 13.106 is not applicable to this subpart because simplified acquisition procedures do not require the creation or existence of